

REMARKS

Claims 1-22 are pending. Claims 1, 11, 15 and 16 have been amended.

Specification

In the specification, the paragraph [0013] has been amended.

Claim Objections

The Patent Office objected to claim 15.

Claim 15 has been amended to depend on claim 14, instead of claim 18, to particularly point out the subject matter which Applicant regards as the invention.

Claim Rejections - 35 U.S.C. § 102(b)

The Patent Office rejected claims 1-3, 11-13, and 16-17 under 35 U.S.C. 102(b) as being anticipated by Engquist, US Patent 5,802,297 (Engquist). The Applicant respectfully traverses.

The present invention relates to a system and method for optimizing remote data content distribution. The remote data distribution may allow multiple clients to access a storage device without unnecessary additional replication of data. The remote data distribution may also accommodate remote users, not requiring a local network for support. Advantageously, the remote data distribution may lessen demands on a network's bandwidth and similar resources when providing data from storage devices to clients.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *W.L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Further, "anticipation requires the presence in a single prior art reference disclosure of each and every element

of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983). Emphasis added.

Applicant respectfully submits claims 1, 11 and 16 include elements that have not been disclosed by Engquist. For instance, claims 1, 11 and 16 recite providing a first storage device which is accessible by more than one client. The Patent Office points to column 7, lines 18-42 of Engquist to support its assertion that Engquist discloses a process or system for providing a first storage device accessible by multiple clients. Engquist states the data cache serves a single client as, “a cache only client” in line 20 as opposed to multiple clients in a server configuration. Further, throughout the entire specification, Engquist does not mention delivering copied data to a storage device for access by multiple clients. Claim 16 of Engquist teaches a client-server computer system configuration, which implies one storage device is a client. By definition, in a client-server computer system, the client does not act as a server providing access to data for multiple users. Similarly, Fig. 2 of Engquist shows a data cache 64 that is accessible only by one client 52 such as C₁. This configuration is distinguishable from Applicant’s Fig. 1, which shows two storage devices, both accessible to multiple clients. The first storage device is directly accessible by multiple clients while the second storage device is accessed through the first storage device to support multiple clients.

Second, Engquist refers to a “local data cache” seven times in the noted section in lines 23-25, 33-34, 37 and 39 of column 7. For example, the passage in column 7, lines 25-27 of Engquist discloses a method or process to “determine whether or not the data requested to be read is already in the *local data cache*.” Emphasis added. The entire passage (lines 18-42) fails to mention data read from a *remote* storage device. In fact, a search of the entire specification of Engquist failed to find a disclosure relating to the distribution of data for access by a client at a remote location.

Consequently, elements of claims 1, 11 and 16 have not been taught, disclosed or suggested by Engquist. Under *Lindemann*, a *prima facie* case of anticipation has not been established for claims 1, 11 and 16, thus claims 1, 11 and 16 are believed allowable. Claims 2-10 and 12-15 and 17-22 are believed allowable due to their dependence upon claims 1, 11 and 16, respectively.

Claim Rejections - 35 U.S.C. § 103(a)

The Patent Office rejected claims 4-10, 14-15 and 18-22 under 35 U.S.C. § 103(a) as being unpatentable over Engquist, US Patent 5,802,297 (Engquist) as applied to claims 1-3, 11-13, 16-17, above, and further in view of well-known features of which Official Notice is hereby taken.

Applicant respectfully traverses this rejection. As the Examiner is well aware, Applicant is required to seasonably challenge statements by the Examiner that are not supported on the record, and failure to do so will be construed as an admission by Applicant that the statement is true. M.P.E.P. §2144.03. Therefore, in accordance with Applicant's duty to seasonably challenge such unsupported statements, the Examiner is hereby requested to cite a reference supporting the position that it would have been obvious to utilize a messaging scheme or passing a unique token from the second storage device to the first storage device for transmitting a requested data copy in accordance with the claimed invention. If the Examiner is unable to provide such a reference, and is relying on facts based on personal knowledge, Applicant hereby requests that such facts be set forth in an affidavit from the Examiner under 37 C.F.R. 1.104(d)(2). Absent substantiation by the Examiner, it is respectfully requested that the rejection under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

In light of the forgoing amendments and arguments, reconsideration of the claims is hereby requested, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Chad W. Swantz", written over a horizontal line.

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